

No. 78-202

Supreme Court, U. S.

FILED

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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1978

CHARLES A. DEASON, JR., PETITIONER

v.

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW MEXICO

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT

MEMORANDUM FOR THE RESPONDENT
IN OPPOSITION

WADE H. MCCREE, JR.,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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The judgment of the United States Court of Appeals for the Tenth Circuit was entered on April 14, 1978. The time for filing a petition for a writ of certiorari was not extended and therefore expired on July 13, 1978. 28 U.S.C. 2101. The petition was filed on July 14, 1978, and is thus out of time. The time limit of 28 U.S.C. 2101(c) is jurisdictional. See *Toledo Scale Co. v. Computing Scale Co.* 261 U.S. 399, 417-418.

The petition for a writ of certiorari should therefore be denied.

Respectfully submitted.

WADE H. MCCREE, JR.,
Solicitor General.

AUGUST 1978.